

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

MAGNOLIA ISLAND PLANTATION	§	CIVIL ACTION NO: 5:18-cv-01526
L.L.C. and BARBARA MARIE CAREY	§	
LOLLAR	§	
Plaintiffs	§	
	§	
VS	§	CHIEF JUDGE S. MAURICE HICKS, JR.
	§	
LUCKY FAMILY, L.L.C., W.A. LUCKY,	§	
III, and BOSSIER PARISH SHERIFF	§	
JULIAN C. WHITTINGTON	§	
	§	MAGISTRATE JUDGE KAREN HAYES
Defendants	§	Jury Trial Demanded

MEMORANDUM IN SUPPORT OF MOTION TO CORRECT SCHEDULING ORDER

Barbara Marie Carey Lollar and Magnolia Island Plantation, LLC (“Plaintiffs”) herein move to correct the most recently-amended version of the Scheduling Order in this matter. This Court entered an Amended Scheduling Order in this suit on September 23, 2019 (**Rec. Doc. 52**). That order set trial for April 13, 2020 and contained a number of pre-trial deadlines. One of those deadlines was on January 6, 2020, for “Daubert/Expert Testimony Motions.” No party filed a *Daubert* motion prior to the January 6, 2020 deadline.

On February 11, 2020, this Court signed an Order upsetting the April 13, 2020 trial date (the “Order,” **Rec Doc. 130**). The Order also stated that all deadlines in the prior scheduling order “not expired as of this date are hereby CONTINUED WITHOUT DATE.”¹

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¹ The Order referenced a July 30, 2019 scheduling order, but cited **Rec. Doc. 52**. There was no scheduling order issued on July 30, 2019 and **Rec. Doc. 52** was the most recently-amended version of the scheduling order, making the intent of the Order clear.

On February 28, 2020, the parties to this suit held a scheduling conference with the court to set a new schedule for the litigation, in accordance with the Order. On March 2, 2020, the Court signed an amended Scheduling Order (the “Scheduling Order;” **Rec. Doc.** 137). The Scheduling Order sets a new deadline of March 20, 2020 for *Daubert* motions, despite the fact that the prior deadline for *Daubert* motions was “expired as of” February 11, 2020. Defendants W.A. Lucky, III and Lucky Family, LLC filed *Daubert* motions on March 20, 2020 (respectively, **Rec. Doc.** 143 and 144).

Plaintiffs believe that the Court’s setting of a new deadline for *Daubert* motions was inadvertent, as such a setting is inconsistent with the Order’s directive that only deadlines that had not expired as February 11, 2020 would be continued without date. It appears that all other deadlines in the prior schedule that had expired as of February 11, 2020 are notated as “PASSED” in the Scheduling Order, save the February 7, 2020 deadline for the exchange of pre-trial order drafts.

In this motion, Plaintiffs therefore seek an order to correct the Scheduling Order to show that the deadline for *Daubert* motions expired on January 6, 2020, and that any *Daubert* motions filed after that date are consequently untimely, including specifically the *Daubert* motions filed at **Rec. Doc.** 143 and 144 by W.A. Lucky, III and Lucky Family, LLC.

Counsel for Plaintiffs have complied with Local Rule 7.4.1 by seeking the consent for the filing and granting of this motion from all parties having an interest to oppose same. Counsel for the defendants in this suit have not consented to the filing.

The Scheduling Order sets a deadline of September 16, 2020 for motions in limine. To the extent any of the arguments advanced in **Rec. Doc.** 143 or 144 are the sorts of evidentiary objections suitable for a motion in limine, as opposed to a *Daubert* motion, Plaintiffs do not

preemptively object to their re-use in a separate motion in limine on a later date. The purpose of the present motion is simply to ensure that the intent of the Court as to deadlines, as evidenced in **Rec. Doc.** 130, is given effect.

Respectfully submitted by,

/s/ Andrew D. Martin
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing was filed electronically with the Clerk of Court using the CM/ECF filing system, and notice of the same will be sent to all counsel of record by operation of the court's electronic noticing system.

Shreveport, Louisiana, on this 24th day of March, 2020.

s/ Andrew D. Martin
OF COUNSEL